

July 21, 2023

BY ECF

Hon. Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Courtroom 1305
New York, NY 10007

Re: *Acuitas Capital, LLC v. Ideanomics, Inc.*, Case No. 1:23-cv-2124 (PAE)

Dear Judge Engelmayer:

We write on behalf of Acuitas Capital, LLC (“Acuitas Capital”) and Ideanomics, Inc. (“Ideanomics”).

On June 9, 2023, the Court issued a scheduling order (ECF No. 68) containing expedited discovery deadlines and a summary judgment deadline of today. We are pleased to report that no summary judgment motions will be filed today because the parties have reached a settlement in principle. The settlement is contingent upon certain additional funds being placed in escrow for the benefit of Acuitas Capital, which funds would then be transferred to Acuitas Capital upon the signing of the settlement agreement and related documents. The additional funding at issue is expected to be provided shortly after August 4, 2023, which is the date by which Ideanomics must file its second quarter 2023 Form 10-Q with the United States Securities and Exchange Commission.

Ideanomics has also agreed that \$5 million of the over \$18.2 million in funds that Acuitas Capital is holding in escrow pursuant to the Court’s Order Granting Preliminary Injunction (ECF No. 41 ¶ 7), may be released to Acuitas Capital now, with the remainder to be released upon the signing of the settlement agreement and related documents. The parties respectfully request the Court so order release of the \$5 million in funds.

If the settlement is not fully consummated shortly after August 4, 2023, the parties will report back to the Court and, if necessary, propose a revised schedule on which to complete the litigation. It is our collective hope that will not be necessary and that a stipulation of dismissal will be filed shortly after August 4, 2023. We appreciate the Court’s consideration and are available to answer any questions.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP

/s/ Andrew B. Kratenstein
Andrew B. Kratenstein
Lisa A. Gerson
One Vanderbilt Avenue
New York, New York 10017
T: (212) 547-5400
Attorneys for Plaintiff Acuitas Capital LLC

LAW OFFICES OF BARRY M. BORDETSKY

/s/ Barry M. Bordetsky
Barry M. Bordetsky
22 N. Park Place
Morristown, New Jersey 07960
T: (973) 998-6596

Attorney for Defendant Ideanomics, Inc.

Granted. The Court is pleased to hear that the parties have reached a settlement, salutes counsel for their constructive role in bringing settlement about, and orders the release to Acuitas Capital, LLC of \$5 million of the \$18.2 million in funds held in escrow.

Paul A. Engelmayer
PAUL A. ENGELMAYER
United States District Judge
July 24, 2023